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OFFICE OF PETITIONS

In re Application of	:	
Clegg et al.	:	
Application No. 10/681,168	:	DECISION ON PETITION
Filed: October 9, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. IVf05US	:	

This is a decision on the petition, filed May 5, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on December 31, 2003. However, a review of the file record discloses that a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) was never filed in the instant application. Accordingly, the application is not in fact abandoned for failure to timely notify the USPTO of the filing of an application in a foreign country. A Petition under 37 CFR 1.137(f) is not necessary and is dismissed as moot.

However, the instant application is abandoned for failure to timely respond to the Office action mailed April 13, 2005. Petitioner should submit a petition under 37 CFR 1.137(b). The petition fee of $750.00 submitted with the instant petition will be held to be applied towards a petition under 37 CFR 1.137(b). If petitioner does not wish to file said petition, a request for refund of the petition fee can be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions